

## FIFTY-FOURTH DAY.

SENATE CHAMBER,  
AUSTIN, TEXAS, Saturday, Nov. 18, 1871. }

Senate met pursuant to adjournment. President Flanagan, presiding. Roll called. Quorum present.

Absent—Senators Bowers, Hillebrand, Latimer and Mills.

Absent, excused—Senator Fountain.

Prayer by the Chaplain.

On motion of Senator Pyle, the reading of the journal of yesterday was dispensed with.

## PETITIONS AND MEMORIALS.

By Senator Pettit: A memorial of citizens of Palestine, Anderson county, praying for the passage of a bill authorizing the authorities of Palestine to extend the streets and alleys of said city. Read and referred to the Committee on State Affairs.

By Senator Pickett: A petition of the heirs of Alex. Buxton for relief. Read and referred to the Committee on Private Land Claims.

Also, a petition of Mrs. Eliza Ayers for relief. Read and referred to the Committee on Private Land Claims.

On motion of Senator Baker, the Engrossing Clerk, Mr. Bryant, was excused from attendance on account of illness.

## REPORTS OF STANDING COMMITTEES.

Reports of Committee on State Affairs:

COMMITTEE ROOM, }  
Austin, Nov. 15, 1871. }

Hon. WEBSTER FLANAGAN,

President of the Senate:

SIR: Your Committee on State Affairs, to whom was referred Senate bill No. 511, entitled "An act for the relief of Dillard Cooper," after careful consideration, instruct me to report the same back and recommend its passage.

Respectfully,

S. W. FORD, Chairman.

Report read.

Senator Tendick moved to suspend the rules to consider the report and bill. Lost.

COMMITTEE ROOM,  
Austin, Nov. 18, 1871. }

Hon. WEBSTER FLANAGAN,

President of the Senate:

SIR: Your Committee on State Affairs, to whom was referred House bill No. 820, entitled "An act to incorporate the Huntsville Union Benevolent Association," after careful consideration, instruct me to report the same back and recommend its passage.

Respectfully,

S. W. FORD, Chairman.

Report read and laid over under the rules.

Report of Committee on Private Land Claims:

COMMITTEE ROOM,  
Austin, Nov. 17, 1871. }

Hon. WEBSTER FLANAGAN,

President of the Senate:

SIR: Your Committee on Private Land Claims, to whom was referred Senate bill No. 534, "An act for the relief of Ezekiel W. Cullen," find that said Cullen was a volunteer soldier in Captain George English's company, under the command, first of General S. F. Austin, and on his retirement of General Edw. Burleson, in the campaign of 1835 against San Antonio de Bexar, and is entitled to bounty claims to land by virtue of the laws of the late Republic of Texas, based upon the evidence of Colonel A. Horton (General Sam Houston's aid-de-camp), Ex-Governor Pease, Colonel C. Deen, and others. In consideration of the foregoing facts, your committee instruct me to report the bill back to the Senate, and recommend that it do pass.

Respectfully,

G. T. RUBY, Chairman.

Report read and laid over under the rules.

Report of Committee on Enrolled Bills:

COMMITTEE ROOM,  
Austin, Nov. 17, 1871. }

Hon. WEBSTER FLANAGAN,

President of the Senate:

SIR: Your Committee on Enrolled Bills have examined and find correctly enrolled Senate bill No. 541, entitled "An act to increase the area and enlarge the boundary of Lamar county;" Senate bill No. 473, entitled, "An act to incorporate the Texas Agricultural, Horticultural Mechanical and Industrial Association of Waco;" Senate bill No. 460, entitled "An act to provide for and

regulate mechanics', contractors', builders' and other liens in the State of Texas;" Senate bill No. 453, entitled, "An act to incorporate the Paris and Bonham tap of the Missouri, Kansas and Texas Railroad;" Senate bill No. 212, entitled "An act to incorporate the G. M. Johnson Lodge of Independent Order of Odd Fellows, at Starrville, Texas;" Senate bill No. 4, entitled "An act to incorporate the Island City Gas Company;" Senate bill No. 240, entitled "An act for the relief of R. S. Brame;" Senate joint resolution No. 44, for the relief of James H. Skinner, sheriff of Henderson county, and to-day at 11 o'clock A. M. presented the same to the Governor for his approval.

Respectfully,

B. J. PRIDGEN, Chairman.

Report read and received.

Report of the Committee on Public Lands:

COMMITTEE ROOM,  
Austin, Nov. 17, 1871. }

Hon. WEBSTER FLANAGAN,

President of the Senate:

SIR: Your Committee on Public Lands, to whom was referred Senate bill No. 562, entitled "An act to incorporate the North Texas Land Company," have had the same under consideration, and I am instructed to report the bill back to the Senate and recommend that it do pass.

Respectfully,

B. J. PRIDGEN, Chairman.

Report read and laid over under the rules:

## BILLS AND RESOLUTIONS.

By Senator Pettit: a bill (Senate bill No. 566) to be entitled "An act to authorize the municipal authorities of the city of Palestine, Anderson county, to extend the streets and alleys of said city to the confines of its corporate limits." Read first time and referred to the Committee on State Affairs.

By Senator Pickett: a bill (Senate bill No. 567) to be entitled "An act for the relief of Mrs. Eliza Ayers, widow of Hiram Bunch, deceased." Read first time and referred to the Committee on Private Land Claims."

Also, a bill (Senate bill No. 568) to be entitled "An act for the relief of the heirs of Alexander Buxton, deceased." Read first time and referred to the Committee on Private Land Claims.

Also, a bill (Senate bill No. 569) to be entitled "An act concern-

ing Roads and Bridges." Read first time and referred to the Committee on Roads, Bridges and Ferries.

By Senator Gaines : a resolution as follows :

WHEREAS, The First Assistant Doorkeeper of the Senate is acting as Doorkeeper ; therefore be it

*Resolved*, That he be allowed the *per diem* pay of eight dollars per day, the same as the First Doorkeeper. Lost.

By Senator Dohoney : a resolution as follows :

*Resolved*, That the Committee on Militia be required to report back to the Senate on Monday next Senate bill No. 527, "An act to repeal the third section of an act entitled 'an act to amend an act entitled an act to establish a State police, and to provide for the regulation of the same,' approved July 1, 1871."

Senator Ford moved a call of the Senate. Call sustained.

Absent, unexcused—Senator Mills.

On motion of Senator Cole, the call was suspended in order to receive a message from the House.

Message from the House by the Chief Clerk, transmitting for signature of the President the following House enrolled bills: House bill No. 773, "An act authorizing the transcription of the surveyors' records of Comanche county;" House bill No. 824, "An act to amend section two hundred and twenty-eight of 'an act prescribing the mode of proceeding in matters of probate,' approved August 15, 1870;" House bill No. 801, "An act for the relief of the heirs of Christopher E. Williams, deceased;" House bill No. 748, "An act to incorporate the North Texas Collegiate Institute at Bonham;" House bill No. 844, "An act to incorporate the Travis county Agricultural Mechanical and Blood Stock Association;" House bill No. 876, "An act to authorize the County Court of Wharton county to levy a tax to build a jail at the county seat;" and informing the Senate that the House had passed without amendment the following Senate bills: Senate bill No. 537, "An act to amend an act entitled 'an act prescribing the times of holding the district courts in the several judicial districts of the State,' approved August 10, 1870;" Senate bill No. 536, "An act to amend an act entitled 'an act to provide for districting the State of Texas into judicial districts,' approved July 2, 1870;" Senate bill No. 440, "An act to amend the twenty-second section of 'an act to provide for districting the State of Texas into judicial districts,' approved July 2, 1870;" substitute Senate bill No. 154, "An act to amend an act entitled 'an act to provide for districting the State of Texas into judicial districts,' approved July 2, 1870;" substitute Senate bill No. 153, to be entitled "An act to amend 'an act prescribing the times of holding the district courts in the sev-

eral judicial districts of the State,' approved August 10, 1870;" and that the House refuses to recede from its amendment to Senate bill No. 405, "An act supplementary to the act entitled 'an act to adopt and establish a penal code for the State of Texas,' approved August 28, 1856," and had appointed as a committee of conference on the part of the House, Messrs. Jenkins, Evans and Tegener to confer with a like committee of the Senate.

Senator Cole moved a call of the Senate. Call sustained.

Absent, unexcused—Senator Mills.

On motion of Senator Saylor the call was suspended.

By unanimous consent, the further consideration of the resolution offered by Senator Dohoney was postponed until there should be a full Senate.

By leave, Senator Saylor submitted the following report:

COMMITTEE ROOM, }  
Austin, Nov. 17, 1871. }

Hon. WEBSTER FLANAGAN,

President of the Senate:

SIR: Your select committee, to whom was referred House bill No. 851, "An act to amend an act entitled 'an act to establish a ferry across Brazos river, at or near the mouth of the Little Brazos river in the counties of Burleson and Brazos,' passed May 16, 1871," have had the same under careful consideration, and I am instructed to report the same back and recommend its passage.

Very respectfully,

W. A. SAYLOR,  
Chairman Select Committee.

Report read.

Senator Saylor moved to suspend the rules to consider the report and bill. Lost.

By leave, Senator Hall submitted the following report of the Committee on Counties and County Boundaries:

COMMITTEE ROOM, }  
Austin, Nov. 18, 1871. }

Hon. WEBSTER FLANAGAN,

President of the Senate:

SIR: Your Committee on Counties and County Boundaries, to whom was referred House bill No. 815, "An act permanently establishing the county seat of Menard county," have had the same under careful consideration, and instruct me to report the same back to the Senate and recommend that it do pass.

Respectfully,

P. W. HALL, Chairman.

Report read and laid over under the rules.

Under direction of the President the Secretary returned to the House the following House enrolled bills, with information that the President had signed the same in open session: House bill No. 773, "An act authorizing the transcription of the surveyor's records of Comanche county;" House bill No. 824, "An act to amend section two hundred and twenty-eight of 'an act prescribing the mode of proceeding in the district courts in matters of probate,' approved, August 15, 1870;" House bill No. 801, "An act for the relief of the heirs of Christopher E. Williams, deceased;" House bill No. 524, "An act to incorporate the North Texas Collegiate Institute, at Bonham;" House bill No. 844, "An act to incorporate the Travis county Agricultural, Mechanical and Blood Stock Association;" House bill No. 876, "An act to authorize the County Court of Wharton county to levy a tax to build a jail at the county seat."

And carried for concurrence of the House, Senate bill No. 564, "An act to incorporate the Mutual Live Stock Insurance Company, of Western Texas."

The President submitted the following communication from the House of Representatives:

HOUSE OF REPRESENTATIVES, }  
Austin, Nov. 17, 1871. }

To the Honorable Senators of the Twelfth Legislature, State of Texas:

GENTLEMEN: We, the undersigned Representatives of the frontier counties of this State, would most respectfully ask your honorable body to pass, with the least possible delay, a bill now pending in the Senate, known as the "Minute bill," for the protection of the frontier.

We deem it unnecessary to explain the great importance and necessity of frontier protection, but hope that your honorable body will comply with this, our request.

Very respectfully, your obedient servants,

J. B. SELF,  
F. SCHLICKUM, 30th District,  
A. ZOELLER, 29th District,  
FRITZ TEGENER, 29th District,  
W. J. LOCKE, 29th District,  
IRA H. EVANS, 30th District,  
J. C. WEAVER, 23d District,  
J. C. JENKINS, 28th District,  
TOM. ROSS, 23d District,  
F. KYLE, 28th District,  
A. B. GANT, 23d District.

Communication read and referred to the Committee on Indian Affairs and Frontier Protection.

### UNFINISHED BUSINESS.

House bill No. 653, "An act to punish certain offenses committed on Sunday."

Senator Dohoney offered the following amendment and moved its adoption: Amend section one in line five, by striking out the words "the Sabbath or."

Senator Ruby moved to reject the amendment.

Yeas and nays called for, and the motion to reject lost by the following vote:

Yeas—Gaines, Hertzberg, Hillebrand, Rawson, Ruby, Tendick—6.

Nays—Mr. President, Bell, Bowers, Broughton, Cole, Dillard, Dohoney, Douglas, Evans, Ford, Hall, Latimer, Parsons, Pridgen, Pyle, Shannon, Swift—17.

Pending discussion Senator Broughton moved that the further consideration of the bill and pending amendments be postponed until the second day of December.

Yeas and nays called for and the motion to postpone lost by the following vote:

Yeas—Broughton, Dillard, Douglas, Ford, Hall, Hillebrand, Pickett, Pyle, Rawson, Swift—10.

Nays—Mr. President, Baker, Bell, Bowers, Cole, Dohoney, Evans, Gaines, Hertzberg, Latimer, Parsons, Pettit, Ruby, Saylor, Shannon, Tendick—16.

The question then recurring upon the adoption of the amendment offered by Senator Dohoney, the yeas and nays were called for, and the amendment adopted by the following vote:

Yeas—Mr. President, Bell, Bowers, Cole, Dillard, Dohoney, Evans, Ford, Hertzberg, Parsons, Pettit, Saylor, Shannon, Swift—14.

Nays—Baker, Broughton, Douglas, Gaines, Hall, Hillebrand, Latimer, Pickett, Pyle, Rawson, Ruby, Tendick—12.

Senator Gaines moved to refer the bill to the Chaplain of the Senate.

The President ruled the motion out of order.

Senator Gaines appealed from the decision of the chair.

The question being, "Will the Senate sustain the decision of the chair?" the yeas and nays were called for and the Senate sustained the decision of the chair by the following vote:

Yeas—Mr. President, Baker, Bell, Bowers, Broughton, Cole, Dillard, Dohoney, Douglas, Evans, Hertzberg, Hillebrand, Latimer,

Mills, Parsons, Pettit, Pickett, Rawson, Ruby, Saylor, Shannon, Swift, Tendick—23.

Nays—Gaincs, Hall—2.

Senator Dohoney offered the following amendment, and moved its adoption: Amend section four, in lines four and five, by striking out all between "Sunday," in line four, and the word "within," in line five. Also, amend section four, in the last line, by inserting after the word "medicines" the words "food or provisions for man or beast."

Yeas and nays called for, and the amendment lost by the following vote:

Yeas—Mr. President, Cole, Dillard, Dohoney, Evans, Ford, Pickett, Pridgen, Shannon, Swift—10.

Nays—Baker, Bell, Broughton, Douglas, Gaines, Hertzberg, Hillebrand, Latimer, Parsons, Pettit, Pyle, Rawson, Ruby, Saylor, Tendick—15.

Senator Broughton offered the following amendment: Amend by striking out the caption and inserting in lieu thereof the following: "An act to excuse certain persons violating the Sabbath laws."

The President ruled the amendment out of order.

Senator Pettit offered the following amendment: Strike out in section one the phrase, "the day known as Sunday," and insert, "the Lord's Day."

Senator Mills moved to indefinitely postpone the bill.

Yeas and nays called for, and the Senate refused to indefinitely postpone the bill by the following vote:

Yeas—Broughton, Dillard, Douglas, Ford, Hillebrand, Mills, Pickett, Pridgen, Pyle, Rawson, Swift—11.

Nays—Mr. President, Baker, Bell, Bowers, Cole, Dohoney, Evans, Gaines, Hertzberg, Latimer, Parsons, Pettit, Ruby, Saylor, Shannon, Tendick—16.

On motion of Senator Ruby House bill No. 653 and the pending amendment was postponed until Wednesday next at 12 M.

By leave, Senator Bowers offered the following resolution:

*Resolved*, That No. 4 of the Rules of the Senate be amended by adding after the word "table," in last line, the words "and the Senate may proceed to the consideration of other business."

Resolution read.

Senator Bowers moved to suspend the rules to consider the resolution.

Yeas and nays called for, and the rules were suspended by the following vote:

Yeas—Mr. President, Baker, Bell, Bowers, Broughton, Cole, Dillard, Dohoney, Douglas, Evans, Hertzberg, Latimer, Mills,



Parsons, Pettit, Pickett, Pridgen, Pyle, Saylor, Shannon, Swift—21.

Nays—Ford, Gaines, Hall, Hillebrand, Rawson, Ruby, Tendick—7.

On motion of Senator Bowers, the resolution was then adopted.

The Senate then proceeded to the consideration of the resolution offered by Senator Dohoney.

Senator Dohoney moved a call of the Senate. Call sustained.

Absent, unexcused—Senator Pyle.

Senator Pyle appeared and answered to his name.

Call suspended.

Senator Gaines moved to lay the resolution on the table.

Yeas and nays called for and motion to lay on the table lost by following vote :

Yeas—Mr. President, Baker, Bell, Ford, Gaines, Hertzberg, Hillebrand, Mills, Parsons, Pettit, Rawson, Ruby, Saylor, Tendick—14.

Nays—Bowers, Broughton, Cole, Dillard, Dohoney, Douglas, Evans, Hall, Latimer, Pickett, Pridgen, Pyle, Shannon, Swift—14.

Senator Dohoney moved the adoption of the resolution.

Yeas and nays called for and the Senate refused to adopt by the following vote :

Yeas—Bowers, Broughton, Cole, Dillard, Dohoney, Douglas, Evans, Hall, Latimer, Pickett, Pridgen, Pyle, Shannon, Swift—14.

Nays—Mr. President, Baker, Bell, Ford, Gaines, Hertzberg, Hillebrand, Mills, Parsons, Pettit, Rawson, Ruby, Saylor, Tendick—14.

By leave, Senator Mills introduced the following petition of certain citizens of Grimes county :

To the Honorable the Senate and House of Representatives of the State of Texas, at Austin assembled :

The undersigned residents of the county of Grimes, State of Texas, present their petition to this honorable body, representing that they reside in and around that large belt of land in said county known as Wallace's Prairie, consisting of a large body of the finest prairie lands in the State, from eight to ten miles square, and around which the timber for fencing is scarce, and the supply wholly insufficient to continue the system of fencing now used by the inhabitants of this section.

That the owners of the land in and around this body of land, and design this petition, have assembled and consulted together for the remedy to the present exhaustive system, have agreed and resolved to do so they must construct a fence circumscribing and em-

bracing the territory indicated by the boundaries hereto attached, marked "Exhibit A."

That the construction of this fence should be uniformly contributed to by the landed proprietors therein, according to the value of their lands enclosed, and that in order to construct the same it is necessary that a uniform tax of one-half of one per cent. on their said lands should be levied.

They further resolved, that in order to insure the success of this enterprise and its permanent continuation, it was necessary that there should be a *joint stock company*, with officers, powers and functions usual with such companies, and with power to levy and collect taxes on the undersigned landed proprietors whenever the board of directors shall deem the same expedient and necessary to repair said fence.

Wherefore they pray this honorable body to grant them a charter of incorporation, with Dugald McAlpin, J. H. Dunham, David White, J. G. Chatham, James B. Stevenson, Gwynn Morrison and Thomas H. Lacy, the board of directors for said incorporation.

That the said incorporation be empowered to levy and collect one-fourth of one per cent. on the value of the land embraced in said limits belonging to the undersigned whenever the directors shall deem it necessary to repair said fence; to regulate the erection of gates around said fence; to impound or pen stock, subject to redemption by the owners thereof on paying such damages as shall be assessed by two citizens, one of whom shall be selected by the owner of the stock, and the other by one of the stockholders of this company, and paying the expenses of keeping the same; to have by-laws and regulations pertaining to the objects of this incorporation and to distribute the same to the members hereof, and to the adjacent proprietors of land and owners of stock.

That this incorporation shall be named Wallace's Prairie Real Estate Joint Stock Company, and exist for the period of ninety-nine years, with privilege on application therefor to renew this charter.

That the undersigned represent all the land owners in these limits, embracing about fifty thousand acres of land, except Mrs. E. Gibony, who represents five hundred and fifty acres; David Lawson, who represents five hundred acres; G. Stresan, who represents one acre; H. Bennett, who represents one acre; Jo. Clark, who represents one acre; Mrs. Stevens, who represents fifty-six acres; W. C. Fogle, who represents 100-109 acres.

#### EXHIBIT A.

Commence near Courtney on the railroad, on the north line"

DugaId McAlpin's Sanders tract of land; thence east with said line to near the corner of Caloway's land; thence in a southerly direction to include the West plantation to the road leading from Courtney to Houston; thence with said road to the northeast corner of James B. Stevenson's plantation; thence north in a straight direction to southeast corner of Mrs. Gibony's Vanalstyne Place; thence with said fence to its northeast corner; thence straight to near corner of the Roco tract of land, and with that tract to its northeast corner; thence easterly with L. B. Shelton's line to his northeast corner; thence northerly through lands owned by Mrs. Sloan, Thomas H. Lacy, D. McAlpin's Wallace tract, and S. McGlethlen as guardian, to the line between W. G. Harris and D. McAlpin, following that line to D. B. Cabeen's plantation; thence north with Cabeen's west boundary to and through D. White's lands and land owned by Mr. Sawyer to his north boundary; thence west to the corner of land owned by D. McAlpin; from thence round the M. McAlpin old field to J. H. McCullock's place, with his line to Mrs. Inges's plantation; thence north with her fence to her north line; thence north to southeast corner of land owned by Ed. Gray through his land to corner of L. Bridge's lands, and with his east line to lands owned by Mr. McGinty; thence west with McGinty's land to lands owned by F. A. McDaniel; from thence north to the edge of the timber; thence west with Grassy creek, in the edge of the overflow, to the railroad; from thence south with the railroad to place of beginning.

Dan'l McAlpin  
B F Darnell  
Henry Strauder, c m  
Josua Smith, c m  
Thos Danford  
H M Inglett  
Jasper Danford  
Alex Grisham, c m  
Isaac Franklin, c m  
J H Dunham  
E Lacy  
James Whiteside  
Wm Quinn  
Mrs M S Stone  
Lewis Bridges  
G N Hargraves  
Robt West  
L L Dickson

John S Bostick  
A M Nelson  
Jim Morgan, c m  
Oliver Bissell, c m  
Thos Harris  
J M Danford  
James Danford  
Green Stoneham, c m  
Alex Deggs, c m  
R H Fisher  
G W Lawrence  
C A Quinn  
C D Quinn  
Mrs Martha A Jones  
Ed Gray  
Jas West  
B W Pearce  
C Dickson

George Grisham  
 J W Cock  
 R T Flewellen  
 D P Everett  
 J H Johnson  
 Eugen Cologne, c m  
 Charles Lee, c m  
 Dugald McAlpin  
 John T Whiteside  
 Wm Sloan  
 F A McDaniel  
 P W Baldwin  
 Dr Jno A McAlpin  
 G N Nevill  
 D W Hearne  
 J G Chatham  
 Thos H Lacey  
 W S Gibson  
 J K Holland  
 Dave White  
 Jas Muldrew  
 Mrs M Inge  
 J A McAlpin, sr  
 J L McAlpin  
 T J Danford  
 L Paul  
 Wm K McAlpin  
 F A McAlpin  
 Thos Sloan  
 J F Whiteside  
 D A McAlpin  
 M Beckwith  
 John Bullock  
 Gwynn Morrison  
 Wm Thames  
 B Glaise  
 John White

Robert Grisham  
 R P Dollins  
 T C Gresham  
 L M Bragg  
 J R Vickers  
 Benj Broadhurst, c m  
 Gen'l Byrd, c m  
 E White  
 O B Colwell  
 Jo Harper  
 Dr R C Cole  
 R H Wood  
 H M Gantt  
 Dr E Gantt  
 J H Morrison  
 J A Vickers  
 Isaac Valentine, c m  
 Edmond Palmer, c m  
 Chas Webster, c m  
 Sam'l Pike, c m  
 Jessie Oaks, c m  
 Ed Burgess, c m  
 B Huggins  
 W J Huggins  
 W J Johns  
 G H Daniel  
 J A Oliver  
 J B Stevenson  
 John Lane  
 Jas Callahan  
 Sam'l Hughey, c m  
 Dennis Steptoe, c m  
 Henry Steptoe, c m  
 Squire Steptoe, c m  
 Rich'd Johnson, c m  
 I Valentine, jr, c m.

Petition read and referred to the Committee on Judiciary.

By leave Senator Mills introduced a bill (Senate bill No. 570), to be entitled "An act to incorporate the Wallace's Prairie Real Estate Joint Stock Company." Read first time and referred to the Committee on Judiciary.

## BILLS ON THIRD READING.

Senate bill No. 535, "An act to amend section eight of 'an act to amend sections one, two, three, five, six, eleven, twelve, thirteen, fifteen, nineteen and twenty of an act to incorporate the Waco Tap Railroad Company.'" Read third time.

Senator Dohoney moved to lay the bill on the table.

Yeas and nays called for, and the motion to lay on the table lost by the following vote :

Yeas--Bowers, Broughton, Dillard, Dohoney, Douglas, Evans, Hall, Pickett, Shannon, Swift--10.

Nays--Mr. President, Baker, Bell, Cole, Ford, Gaines, Hillebrand, Mills, Parsons, Pettit, Pridgen, Pyle, Rawson, Ruby, Saylor, Tendick--16.

Senator Douglas moved to postpone the further consideration of the bill until Thursday next at 11 A. M.

Yeas and nays called for and motion to postpone lost by the following vote :

Yeas--Bowers, Broughton, Dillard, Dohoney, Douglas, Evans, Hall, Hertzberg, Latimer, Pickett, Shannon, Swift--12.

Nays--Mr. President, Baker, Bell, Cole, Ford, Gaines, Hillebrand, Mills, Pettit, Pridgen, Pyle, Rawson, Ruby, Saylor, Tendick--15.

Senator Pickett moved to postpone further consideration until Tuesday next at 11 A. M.

On motion of Senator Ruby the motion to postpone was rejected.

Senator Ford then moved the passage of the bill.

Yeas and nays called for and Senate bill No. 535 passed by the following vote :

Yeas--Mr. President, Baker, Bell, Ford, Gaines, Hertzberg, Hillebrand, Mills, Parsons, Pettit, Pridgen, Pyle, Rawson, Ruby, Saylor, Tendick--16.

Nays--Bowers, Broughton, Cole, Dillard, Dohoney, Douglas, Evans, Hall, Latimer, Pickett, Shannon, Swift--12.

Senator Ruby submitted the following report of the Committee on Engrossed Bills :

COMMITTEE ROOM,  
Austin, Nov. 18, 1871. }

Hon. WEBSTER FLANAGAN,

President of the Senate :

SIR: Your Committee on Engrossed Bills, have examined and find correctly engrossed Senate bill No. 450, a bill entitled "An act to incorporate the Marshall Salamander Fire Company of the city of Marshall, Texas."

G. T. RUBY, Chairman.

Report read and received.

### BILLS ON THIRD READING—Resumed.

Substitute House bill No. 99, "An act to incorporate the Cleburne and Cross Timber Railway Company."

Senator Pickett moved to postpone the consideration of the bill and make it the special order for Tuesday next at 11 o'clock A. M. Yeas and nays called for and motion carried by the following vote:

Yeas—Bell, Bowers, Broughton, Cole, Dillard, Dohoney, Douglas, Evans, Hall, Hertzberg, Latimer, Mills, Pettit, Pickett, Pyle, Shannon, Swift, Tendick—18.

Nays—Mr. President, Baker, Ford, Gaines, Hillebrand, Parson, Pridgen, Rawson, Ruby, Saylor—10.

House bill No. 866, to be entitled "An act to encourage the manufacture of cotton and wool in this State." Read third time.

Senator Mills moved the passage of the bill.

Yeas and nays called for, and motion carried by the following vote:

Yeas—Mr. President, Baker, Bowers, Broughton, Cole, Dillard, Dohoney, Evans, Ford, Hall, Hertzberg, Latimer, Mills, Parsons, Pettit, Pickett, Pridgen, Rawson, Ruby, Saylor, Swift, Tendick—22.

Nays—Bell, Douglas, Gaines, Hillebrand, Shannon—5.

By leave Senator Ruby, submitted the following report of the Committee on Private Land Claims.

COMMITTEE ROOM,  
Austin, Nov. 18, 1871.

Hon. WEBSTER FLANAGAN,

President of the Senate:

SIR: Your Committee on Private Land Claims, to whom was referred an act to be entitled "An act for the relief of the heirs of N. A. Bonzano," have had the same under careful consideration, and would respectfully submit the following report: From the original conditional certificate, issued October 1, 1837, which was presented in evidence to the committee, it is evident that the heirs of the said N. A. Bonzano are entitled to an unconditional certificate of twelve hundred and eighty acres. Your committee therefore instruct me to report the bill back to the Senate and recommend that it do pass.

Respectfully,

G. T. RUBY, Chairman.

Report read and laid over under the rules.

By leave, Senator Hall submitted the following report of the Committee on Counties and County Boundaries:

COMMITTEE ROOM, }  
Austin, Nov. 18, 1871. }

Hon. WEBSTER FLANAGAN,

President of the Senate :

SIR: Your Committee on Counties and County Boundaries, to whom was referred House bill No. 821, to be entitled "An act permanently establishing the county site of Rains county," have had the same under careful consideration, and have instructed me to report the same back to the Senate and recommend its passage.

Respectfully,

P. W. HALL, Chairman.

Report read and laid over under the rules.

By leave, Senator Tendick submitted the following report of the Committee on Militia :

COMMITTEE ROOM, }  
Austin, Nov. 18, 1871. }

Hon. WEBSTER FLANAGAN,

President of the Senate :

SIR: Your Committee on Militia, to whom was referred House bill No. 446, entitled "An act to muster into service minute men, for the protection of the frontier," have had the same under careful consideration, and I am instructed to report it back to the Senate and recommend that the bill be referred to the Committee on Indian Affairs and Frontier Protection.

Respectfully,

ROBERT P. TENDICK, Chairman.

On motion of Senator Tendick the rules were suspended and the report of the committee adopted.

#### BILLS ON THIRD READING—Resumed.

House bill No. 177, "An act to amend an act entitled 'an act to provide for the mode and manner of conducting elections, making returns, and for the protection and purity of the ballot box,' approved August 15, 1870." Read third time.

Senator Hall moved that the bill do now pass.

Yeas and nays called for, and motion carried by the following vote :

Yeas—Bell, Bowers, Broughton, Cole, Dillard, Dohoney, Douglas, Evans, Hall, Latimer, Mills, Pettit, Pickett, Pridgen, Pyle, Shannon, Swift—17.

Nays—Mr. President, Baker, Ford, Hertzberg, Hillebrand, Parsons, Rawson, Ruby, Saylor, Tendick—10.

By leave, Senator Bowers, introduced Senate bill No. 571, a bill

to be entitled "An act to regulate the practice in the Supreme Court." Read first time and referred to the Committee on Judiciary.

Senator Hall moved that the Senate stand adjourned to 3 P. M.

Senator Broughton moved that the Senate stand adjourned to 10:30 A. M. Monday.

Yeas and nays called for, and motion lost by the following vote:

Yeas—Broughton, Dillard, Douglas, Evans, Gaines, Pettit, Pickett, Swift—8.

Nays—Mr. President, Baker, Bell, Bowers, Cole, Dohoney, Ford, Hall, Hertzberg, Hillebrand, Latimer, Mills, Parsons, Pridgen, Pyle, Rawson, Ruby, Saylor, Shannon, Tendick—20.

Question recurring on the motion made by Senator Hall to adjourn to 3 o'clock P. M., yeas and nays called for and the motion carried by the following vote:

Yeas—Mr. President, Baker, Bell, Bowers, Cole, Evans, Ford, Gaines, Hall, Hertzberg, Hillebrand, Latimer, Parsons, Pettit, Pickett, Pridgen, Pyle, Rawson, Ruby, Shannon, Swift, Tendick—22.

Nays—Broughton, Dillard, Dohoney, Douglas, Mills—5.

So the Senate at 12:15 P. M. adjourned to 3 P. M.

## AFTERNOON SESSION.

3 O'CLOCK P. M.

Senate met pursuant to adjournment. President Flanagan presiding. Roll called. No quorum present.

Absent—Senators Bowers, Broughton, Cole, Dillard, Evans, Ruby, Rawson, Shannon, Swift and Tendick.

Absent, excused—Senator Fountain.

Senators Cole, Rawson, Ruby and Tendick appeared and answered to their names.

Quorum present.

On motion of President Flanagan the rules were suspended to take from file House bill No. 273, "An act making an appropriation for printing five hundred copies of the rules reported for the Supreme and District Courts, and five hundred copies of the circular letter of the Clerk of the Supreme Court." Read second time and passed to a third reading.

On motion of Senator Baker the rules were further suspended and House bill No. 273 read third time and passed.



By leave, Senator Pickett introduced the following resolution and moved its adoption :

*Resolved*, That no railroad subsidy bill shall be considered during the afternoon sessions of the Senate.

Senator Baker moved to lay the resolution on the table.

Yeas and nays called for, and the resolution laid on the table by the following vote :

Yeas—Mr. President, Baker, Bell, Cole, Ford, Gaines, Hall, Hillebrand, Latimer, Mills, Parsons, Pettit, Pridgen, Pyle, Rawson, Saylor, Shannon, Tendick—18.

Nays—Dohoney, Douglas, Evans, Hertzberg, Pickett—5.

On motion of Senator Baker the rules were suspended to take from file Senate bill No. 554, "An act amendatory and supplementary to 'an act to encourage the speedy construction of a railway through the State of Texas to the Pacific Ocean,' passed on the — day of May, 1871."

Senator Pickett moved a call of the Senate. Call sustained.

Absent, unexcused—Senators Bowers, Broughton, Dillard and Swift.

The President stated that under the resolution offered by Senator Bowers, amending the rules of the Senate adopted this morning, it was in order for the Senate to proceed to the consideration of other business, and that the consideration of the bill pending would be resumed as soon as the absent Senators should appear.

By leave, Senator Rawson submitted the following report of the Committee on Claims and Accounts :

COMMITTEE ROOM, {  
Austin, Nov. 18, 1871. }

Hon. WEBSTER FLANAGAN,

President of the Senate:

SIR: Your Committee on Claims and Accounts, to whom was referred the memorial of Captain Luke A. Falvel, late sailing master in the navy of the Republic of Texas, asking that a bill may be passed paying him for services rendered in the navy, have had the same under consideration, and after having carefully examined the testimony, beg leave to submit the following report:

We find that Luke A. Falvel was duly appointed a sailing master in the Texas navy, by a commission bearing date September 4, 1839, and that he accepted the same and reported for duty on the seventh of September, 1839, and served in such capacity until the transfer of the Texas navy to the United States, under the treaty of annexation. The testimony and records in the case clearly prove that said Luke A. Falvel received no pay whatever for said services.

It further appears from the testimony, that the salary of a sailing

master was one thousand dollars a year; and while we have been unable to ascertain the precise date of the transfer of the Texas navy to the United States, we have adopted the date when, according to the recognized decisions of the courts, the Republic of Texas ceased and she became one of the States of the Union, viz., December 29, 1845.

Your committee therefore believing the claim of Capt. Falvel to be a just, legal and meritorious one, and believing it to be the imperative duty of the Legislature to pay all such just claims against the State, in order that her credit may be established and maintained, beg leave to report favorably upon this claim and earnestly recommend the passage of the accompanying bill.

Respectfully,

HENRY RAWSON, Chairman.

A report and bill (Senate bill No. 572) to be entitled "An act for the relief of Luke A. Falvel," was then read first time.

On motion of Senator Bell, the rules were suspended to take from file (Senate bill No. 519) "An act to aid the available school fund in placing on a sound and durable foundation and maintaining a system of public free schools etc." Read second time.

On motion of Senator Pickett, it was made the special order for Monday next at 11 A. M. and at that hour from day to day until disposed of.

On motion of Senator Bowers, the rules were suspended to take from file House bill No. 833, "An act to incorporate the Round Mountain Educational Company of Blanco county." Read second time and passed to a third reading.

On motion of Senator Baker the rules were further suspended and House bill No. 833 read third time and passed.

On motion of Senator Dillard the rules were suspended to take from file Senate bill No. 517, "An act to incorporate the Cherokee Mining Company." Read second time, ordered engrossed and passed to a third reading.

On motion of Senator Dillard the rules were further suspended and Senate bill No. 517 read third time and passed.

On motion of Senator Saylor the rules were suspended to take from file House bill No. 114, "An act to incorporate the Jefferson City Street Railway Company," and on further motion the Senate receded from its amendments thereto.

On motion of Senator Dehoney the rules were suspended to take from file substitute House bill No. 691, "An act to repeal sections twelve, thirteen, fourteen, fifteen, sixteen and seventeen, of an act

entitled 'an act regulating public printing,' approved August 13, 1870." Read second time.

Senator Dohoney moved a call of the Senate. Call sustained.

Absent—Senator Broughton.

Absent, excused—Senator Fountain.

On motion of Senator Douglas the rules were suspended to take from file Senate bill No. 562, "An act to incorporate the North Texas Land Company." Read second time, ordered engrossed and passed to a third reading.

On motion of Senator Douglas the rules were further suspended and Senate bill No. 562 read third time and passed.

On motion of Senator Evans the rules were suspended to take from file Senate bill No. 534, "An act for the relief of Ezekiel W. Cullen." Read second time, ordered engrossed and passed to a third reading.

On motion of Senator Evans the rules were further suspended and Senate bill No. 534 read third time and passed by the following vote:

Yeas—Bell, Cole, Dohoney, Douglas, Evans, Hall, Hertzberg, Hillebrand, Mills, Parsons, Pettit, Rawson, Ruby, Saylor, Shannon, Swift, Tendick—17.

Nays—Mr. President, Baker, Gaines, Latimer, Pickett—5.

On motion of Senator Ford, the rules were suspended to take from file Senate bill No. 395, "An act supplementary to and amendatory of 'an act to provide for the registration of voters,' approved July 11, 1870." Read second time.

On motion of Senator Pickett, Senate bill No. 395 was made the special order for Thursday next at 11 A. M., and at that hour from day to day until disposed of, and one hundred copies of the bill, substitute and report ordered printed.

By leave, Senator Pettit submitted the following report on Senate bill No. 456:

COMMITTEE ROOM,  
Austin, Nov. 18, 1871. }

Hon. WEBSTER FLANAGAN,

President of the Senate:

SIR: Your Select Committee, to whom was referred Senate bill No. 456, entitled "An act to make a new apportionment for Representative and Senatorial districts of the State of Texas and the substitute reported therefor," have had the same under careful consideration, and a majority thereof instruct me to report the accompanying substitute with the recommendation that it do pass.

Respectfully,

E. PETTIT, Chairman.

Report and substitute Senate bill No. 456, to be entitled "An act to make a new apportionment for Representative and Senatorial districts of the State of Texas," read first time.

On motion of Senator Bell, the rules were suspended to consider the report and bill.

Senator Dohoney moved to reject the substitute.

Senator Douglas made the point of order, that the motion was out of order, as the substitute had not yet been adopted by the Senate.

The President ruled the point of order not well taken, and the motion to reject in order.

The yeas and nays were then taken on the motion to reject, which was lost by the following vote:

Yeas—Cole, Dillard, Dohoney, Evans, Latimer, Pickett, Pyle, Shannon, Swift—9.

Nays—Mr. President, Baker, Bell, Douglas, Ford, Gaines, Hall, Hertzberg, Hillebrand, Mills, Parsons, Pettit, Pridgen, Rawson, Ruby, Saylor, Tendick—17.

All the absent Senators having appeared, the Senate proceeded to the consideration of Senate bill No. 554. Bill read second time.

Senator Dohoney offered the following amendment to the amendment reported by the Committee on Internal Improvements: Amend the amendment by striking out the words "and the town of" before the word "Paris," and insert in lieu thereof the words "and through the city of." Adopted.

The following committee amendments were then adopted as amended:

Amend section one by inserting after the word "thence" in line sixty, the words "through the town of Clarksville, in Red River county, and the town of Paris, in Lamar county."

Amend section six by adding thereto the words: "*Provided*, that the said companies, after reaching the said point of junction, shall construct the single track westward toward El Paso at the rate of one hundred miles per annum until the whole amount of the subsidy shall be exhausted, failing to do which, the said companies shall forfeit all right to any subsidy beyond the said point of junction."

The following message from the Governor was announced:

GOVERNOR'S OFFICE, }  
Austin, Nov. 18, 1871. }

To the Honorable Senate of the State of Texas:

GENTLEMEN: I would respectfully ask the advice and consent of your honorable body to the following appointments, to-wit: Andrew Crozier, notary public, Collin county; Peter Johnson, notary public, Refugio county; J. E. Foster, notary public, Harris county.

Respectfully,

EDMUND J. DAVIS, Governor.

Message read and referred to the Committee on Nominations.

Consideration of Senate bill No. 554 resumed.

Senator Dohoney offered the following amendments: Amend section three, line six, by striking out the figures "1874" and inserting "1875." Amend same section, line twenty-three, by striking out "1874" and inserting "1875."

Senator Parsons moved to lay the amendments on the table.

Yeas and nays called for, and the motion carried by the following vote:

Yeas—Mr. President, Baker, Bell, Ford, Gaines, Hall, Latimer, Mills, Parsons, Pettit, Pridgen, Pyle, Rawson, Ruby, Saylor, Tendick—16.

Nays—Bowers, Broughton, Dillard, Dohoney, Douglas, Evans, Hertzberg, Hillebrand, Pickett, Shannon, Swift—11.

Senator Dohoney offered the following amendments: Amend section two in line nine by striking out the word "twenty-five," and insert in lieu thereof the words "one hundred;" further amend same section in line twenty-seven, by striking out the word "ten," and inserting in lieu thereof the word "twenty-five."

Senator Parsons moved to lay the amendments on the table.

Yeas and nays called for and the motion carried by the following vote:

Yeas—Mr. President, Baker, Bell, Ford, Gaines, Hall, Mills, Parsons, Pettit, Pridgen, Pyle, Rawson, Ruby, Saylor, Tendick—15.

Nays—Bowers, Broughton, Cole, Dillard, Dohoney, Douglas, Evans, Hertzberg, Hillebrand, Latimer, Pickett, Shannon, Swift—13.

Senator Bowers offered the following amendment, which was adopted: Amend section four, line five, by striking out the word "July" and inserting in lieu thereof the word "January."

Senator Douglas offered the following amendment: Amend section five by adding after line eight the following: "*Provided*, that said gauge shall not be fixed at a less width than four feet eight and a half inches."

Pending discussion upon the amendment, Senator Pickett moved to adjourn until 10 o'clock A. M. Monday.

Yeas and nays called for, and the Senate refused to adjourn by the following vote:

Yeas—Broughton, Dillard, Dohoney, Douglas, Evans, Hertzberg, Hillebrand, Pettit, Pickett, Swift, Tendick—11.

Nays—Mr. President, Baker, Bell, Bowers, Cole, Ford, Gaines, Hall, Latimer, Mills, Parsons, Pridgen, Pyle, Rawson, Ruby, Saylor, Shannon—14.

[Senator Pridgen called to the chair.]

On motion of President Flanagan, Senator Bowers was excused until Monday.

The question being on the amendment offered by Senator Douglas, President Flanagan moved to lay the amendment on the table.

Yeas and nays called for, and the motion to lay on the table carried by the following vote :

Yeas—Mr. President, Baker, Bell, Cole, Dohoney, Evans, Ford, Gaines, Hall, Latimer, Mills, Parsons, Pettit, Pridgen, Pyle, Rawson, Ruby, Saylor, Shannon, Tendick—20.

Nays—Dillard, Douglas, Hertzberg, Hillebrand, Pickett, Swift—6.

Senator Broughton was excused from voting, having paired off with Senator Bowers, the latter voting in the affirmative and the former in the negative.

Senator Pickett offered the following amendments : Amend by adding to section eight the following : “ *Provided*, this act and the act of which this is amendatory and to which it is supplementary, shall both be referred to the people of this State for their ratification or rejection at the ballot box, at an election hereafter to be provided for in this State, and that neither this act nor the act to which this is supplementary shall have any force or effect whatever until the same shall have been ratified by the people of this State, and that the Trans-Continental and Southern Pacific Railroads shall take no benefits under this act until they file their written acceptance of the terms of this proviso in the office of the Secretary of State.”

Pending discussion, Senator Dohoney moved to adjourn until 10:30 A. M. Monday.

Yeas and nays called for, and the Senate refused to adjourn by the following vote :

Yeas—Broughton, Dillard, Dohoney, Douglas, Evans, Hertzberg, Hillebrand, Pettit, Pickett, Swift, Tendick—11.

Nays—Mr. President, Baker, Bell, Cole, Ford, Gaines, Hall, Latimer, Mills, Parsons, Pridgen, Pyle, Rawson, Ruby, Saylor, Shannon—16.

The question then recurred upon the amendment offered by Senator Pickett.

Senator Ruby moved the previous question. Previous question seconded.

Senator Pickett made the point of order, that the motion for the previous question was out of order, upon the ground that when the motion for adjournment was made, he was in possession of the floor, and only yielded it for the purpose of allowing a motion to adjourn.

The Chair ruled the point of order not well taken, and the motion for the previous question in order.

Senator Pickett appealed from the decision of the Chair.

The question being, “ Shall the decision of the Chair be sus-

tained?" the yeas and nays were called for, and the decision of the Chair sustained by the following vote:

Yeas—Mr. President, Baker, Bell, Cole, Ford, Gaines, Hall, Latimer, Mills, Parsons, Pyle, Rawson, Ruby, Saylor, Tendick—15.

Nays—Dillard, Dohoney, Evans, Hertzberg, Hillebrand, Pettit, Pickett, Shannon, Swift—9.

The question being "Shall the main question, to-wit: The adoption of the amendment offered by Senator Pickett, now be put," the yeas and nays were called for and the main question called for by the following vote:

Yeas—Mr. President, Baker, Bell, Cole, Evans, Ford, Gaines, Hall, Latimer, Mills, Parsons, Pridgen, Pyle, Rawson, Ruby, Saylor, Shannon—17.

Nays—Broughton, Dillard, Dohoney, Douglas, Hertzberg, Hillebrand, Pettit, Pickett, Swift, Tendick—10.

The yeas and nays were then called upon the adoption of the amendments which were lost by the following vote:

Yeas—Dillard, Douglas, Evans, Hertzberg, Hillebrand, Pickett, Swift, Tendick—8.

Nays—Mr. President, Baker, Bell, Cole, Dohoney, Ford, Gaines, Hall, Latimer, Mills, Parsons, Pettit, Pridgen, Pyle, Rawson, Ruby, Saylor, Shannon—18.

Senator Parsons moved the engrossment of the bill.

Yeas and nays called for and Senate bill No. 554 ordered engrossed by the following vote:

Yeas—Mr. President, Baker, Bell, Cole, Evans, Ford, Gaines, Hall, Latimer, Mills, Parsons, Pettit, Pridgen, Pyle, Rawson, Ruby, Saylor, Shannon, Tendick—19.

Nays—Dillard, Dohoney, Douglas, Hertzberg, Hillebrand, Pickett, Swift—7.

Senator Broughton was excused from voting, having paired off with Senator Bowers, the former voting in the negative and the latter in the affirmative.

Senator . . . . . moved that the Senate stand adjourned to 10:30 A. M. Monday.

Yeas and nays called for and motion carried by the following vote:

Yeas—Baker, Bell, Broughton, Cole, Dillard, Dohoney, Douglas, Evans, Gaines, Hall, Hertzberg, Hillebrand, Parsons, Pickett, Pridgen, Pyle, Ruby, Swift, Tendick—19.

Nays—Mr. President, Ford, Latimer, Mills, Pettit, Rawson, Saylor—7.

So the Senate at 7 P. M. adjourned to 10:30 A. M. Monday.